

STATE OF IOWA  
PROPERTY ASSESSMENT APPEAL BOARD

**Loren Vallier,**  
Petitioner-Appellant,

v.

**Pottawattamie County Board of Review,**  
Respondent-Appellee.

**ORDER**

**Docket No. 10-78-0369**

**Parcel No. 000 035 186 008422 000 000**

On August 11, 2011, the above-captioned appeal came on for hearing before the Iowa Property Assessment Appeal Board. The appeal was conducted under Iowa Code section 441.37A(2)(a-b) and Iowa Administrative Code rules 701-71.21(1) et al. The appellant, Loren Vallier, requested a hearing and was self-represented. The Pottawattamie County Board of Review designated Assistant County Attorney Leanne Gifford as its representative. The Appeal Board now having examined the entire record, having heard the testimony, and being fully advised, finds:

***Findings of Fact***

Loren Vallier, owner of property located at 1027 5th Avenue, Council Bluffs, Iowa, appeals from the Pottawattamie County Board of Review decision reassessing his property. According to the property record card, the subject property consists of a two-story frame, four-unit family conversion having a 1402 square feet base. The property was built in 1900 and includes a full unfinished basement. The subject property is in very good condition for the age, and has four full baths, as well as air conditioning. The site consists of 0.16 acres. The real estate was classified commercial for the January 1, 2010, assessment, and valued at \$115,000; representing \$7705 in land value and \$107,295 in the improvement value. This was a change from the January 1, 2009, value.

Vallier protested to the Board of Review on the ground that the property's assessment is not equitable as compared to other like property in the taxing district under Iowa Code section 441.37(1)(a). The Board of Review denied the protest.

Vallier filed his appeal with this Board and urged the same ground. Vallier believes a fair assessment is \$79,350.

Vallier testified the January 1, 2010, assessment increased from the January 1, 2009, assessment of \$79,350 to the current assessment of \$115,000. He believes, however, that market conditions have deteriorated since 2007. He stated the subject property is located in a high crime and blighted area, which makes it hard to find good tenants. Additionally, he noted he has had to evict many tenants, they are very hard on the property, and it is often necessary to do extensive cleaning and repairs to make the property available for rent again.

Vallier presented two exhibits at hearing. Exhibit 1 indicated that a similar-type property located at 1219 5th Avenue sold for \$45,000, which was listed by realtor John Edwards. Exhibit 1 also included five other properties that had sold and were assessed for less than the sale price.

Vallier also submitted Exhibit 2 that listed like properties in the area of the subject property, which he believes indicates the subject property assessment should be \$70,251. The number of units in these properties range from three units up to twelve units.

When the Board of Review's counsel cross-examined Vallier, it became clear that all but one of his comparables sales were abnormal sales: foreclosures, contract sales, family sale, etc. In fact, Vallier's exhibits included only one current normal transaction after the removal of abnormal sales transactions. He did not adjust any of these sales even though abnormal sales transactions required either exclusion or adequate adjustments to be used as comparables. *See* Iowa Code § 441.21(1)(b). Therefore, he would be unable to determine what the fair market should be for 2010. Additionally, Vallier compared residential classified property with commercial classified property.

Vallier stated other assessments in the area did not increase. He also believed that since he did not fill out an income statement as requested by the assessor, he was penalized and his assessment was increased. The Assessor testified there was no penalty for failing to provide such information. And without the information, income values were estimated based on information that was provided by other taxpayers.

Penny Rawlins, Deputy County Assessor, testified on behalf of the Board of Review. Rawlins stated that in 2009, Pottawattamie County received an equalization order from the Department of Revenue to increase commercial realty by 15%. Rawlins also testified the County reappraised commercial realty in 2010. The last time commercial property was reassessed was 1997. She stated that since Vallier's property had not been assessed since 1997, there was a large increase in 2010. When questioned, Rawlins admitted the County, in fact, did not do a complete reassessment of commercial property, instead they selected those properties that had not been looked at in some time, which were primarily conversions. She also pointed out that Vallier's data included both residential and commercial property in his exhibits and the sales he used included abnormal sales that would not be used in the assessment process.

We are somewhat concerned that Pottawattamie County is reassessing only a part of a class at any given time and not the entire class. The State Board of Tax Review in *Board of Supervisors of Pottawattamie County v. Department of Revenue*, No. 95 (Iowa Bd. Tax Rev. Sept. 1, 1976), has said that selectively reassessing properties "will cause some taxpayers to pay more than they should in property taxes and others to pay less than the law would require them to pay. Any inequities that exist within a class of property...[are] something the Assessor should try to correct." However, where a county fails to do so, the Director has the authority to require it. *Id.* at 3; Iowa 427.17(2). Although staff size and workload may not allow a complete review of an entire class of property, this is what should be done.

Nevertheless, viewing the evidence as a whole, it is our conclusion that Vallier failed to present persuasive evidence sufficient to support the claim that the assessment is not equitable compared to similar properties. We, therefore, affirm Loren Vallier's property assessment.

### *Conclusions of Law*

The Appeal Board based its decision on the following law.

The Appeal Board has jurisdiction of this matter under Iowa Code sections 421.1A and 441.37A (2011). This Board is an agency and the provisions of the Administrative Procedure Act apply to it. Iowa Code § 17A.2(1). This appeal is a contested case. § 441.37A(1)(b). The Appeal Board determined anew all questions arising before the Board of Review related to the liability of the property to assessment or the assessed amount. § 441.37A(3)(a). The Appeal Board considers only those grounds presented to or considered by the Board of Review. § 441.37A(1)(b). But new or additional evidence may be introduced. *Id.* The Appeal Board considers the record as a whole and all of the evidence regardless of who introduced it. § 441.37A(3)(a); *see also Hy-vee, Inc. v. Employment Appeal Bd.* 710 N.W.2d 1, 3 (Iowa 2005). There is no presumption that the assessed value is correct. § 441.37A(3)(a).

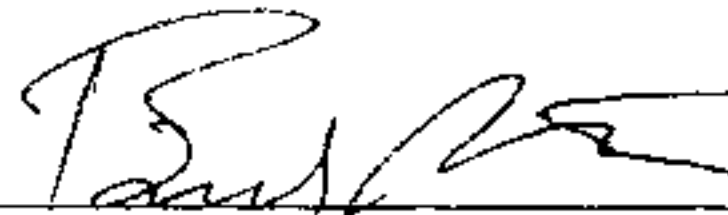
To prove equity, a taxpayer may show that an assessor did not apply an assessing method uniformly to similarly situated or comparable properties. *Eagle Food Centers v. Bd. of Review of the City of Davenport*, 497 N.W.2d 860, 865 (Iowa 1993). Alternatively, a taxpayer may show the property is assessed higher proportionately than other like property using criteria set forth in *Maxwell v. Shriver*, 257 Iowa 575, 133 N.W.2d 709 (1965). The Iowa Supreme Court has interpreted “representative number of comparable properties” to be more than one property. *Maxwell v. Shriver*, 257 Iowa 578, 581, 133 N.W.2d 709, 712 (1965). This “statutory requirement is both a jurisdictional prerequisite and an evidentiary requirement for bringing a claim of inequitable or discriminatory assessment before the board.” *Montgomery Ward Dev. Corp. by Ad Valorem Tax, Inc. v. Cedar*

*Rapids Bd. of Review*, 488 N.W.2d 436, 441 (Iowa 1992). Furthermore, the word "shall" as used in the statute makes the listing of comparable properties mandatory as failing to do so would "directly frustrate the sole function of the requirement, which is to enable the board to make a preliminary determination on the matter of equitability of assessment." *Id.*

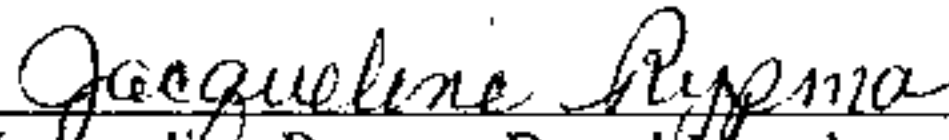
In the opinion of the appeal Board, the evidence does not support the claims that the property's assessment is not equitable with like properties. We, therefore, affirm the assessment of the Loren Vallier property as determined by the Pottawattamie County Board of Review as of January 1, 2010.

THE APPEAL BOARD ORDERS the assessment of the Loren Vallier property located at 1027 5th Avenue, Council Bluffs, Iowa, of \$115,000 as of January 1, 2010, set by the Pottawattamie County Board of Review is affirmed.

Dated this 20 day of September 2011.



Richard Stradley, Presiding Officer



Jacqueline Rypma, Board Member



Karen Oberman, Board Member

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Certificate of Service	
The undersigned certifies that the foregoing instrument was served upon all parties to the above cause & to each of the attorney(s) of record herein at their respective addresses disclosed on the pleadings on <u>9-28</u> , 2011.	
By:	<input checked="" type="checkbox"/> U.S. Mail <input type="checkbox"/> FAX
	<input type="checkbox"/> Hand Delivered <input type="checkbox"/> Overnight Courier
Signature	